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## RECENT CASES.

**ADMIRALTY — JURISDICTION — STATE CONTROL OVER MARITIME RIGHTS.** Several persons were killed in a collision on the high seas between two vessels owned by citizens of Delaware. Suit was brought in an admiralty court under a Delaware statute which allowed an action for death by wrongful act. *Held*, that the action will lie. *The Hamilton*, 207 U. S. 398. See NOTES, p. 357.

**ADVERSE POSSESSION — WHAT CONSTITUTES — POSSESSION UNDER UNRECORDED DEED.** — In 1891 A conveyed land to C, who re-conveyed to A and B. The first deed was recorded. C forged a certificate of registration on the second deed, which was not in fact recorded. In 1895 C mortgaged the land to the plaintiff, who was without notice of the unrecorded deed. In 1903 the plaintiff brought an action to enforce the mortgage against A and B, who had been in actual, open, and continuous possession of the land under a claim of title in themselves for the whole period. The statute of limitations was ten years. *Held*, that the plaintiff may recover. *McVity v. Tranouth*, [1908] A. C. 60.

By the registry laws unrecorded deeds were void as to subsequent purchasers or mortgagees without actual notice, but valid as between the parties. *Cf. McGregor v. Kerr*, 29 Nova Scotia 45. The defendants' possession between 1891 and 1895 consequently had all the essential elements of adverse possession necessary to claim the benefit of the statute except the existence of a right of action against them. Although it is generally stated that a grantee's possession is adverse to his grantor, only one case has been found which applied the doctrine to possession that no one had a right to disturb. See *Sutton v. Pollard*, 96 Ky. 640, 644. The case of a donee of land under an oral gift is distinguishable, because the donor can at any time oust him or bring ejectment, the gift being void by the statute of frauds. *Cf. Vandiveer v. Stickney*, 75 Ala. 225. Moreover, an analogy to the present case is found in the case of negative easements. Where the acquisition of easements by adverse user is based on the analogy to the statute of limitations, negative easements cannot be acquired by adverse user because there is no right of action. *Napier v. Bulwinkle*, 5 Rich. Law (S. C.) 311; *cf. Parker v. Banks*, 79 N. C. 480, 485.

**ALIENS — ENFORCEMENT BY ASSIGNEE OF CONTRACT TO CONVEY LAND TO ALIEN.** — Civil Code of South Carolina, 1902, § 1795, provided that "no alien either in his own right, or as trustee or *cestui que trust*, shall own or control more than five hundred acres of land." The defendant contracted to convey more than five hundred acres to the plaintiff's assignor, an alien. *Held*, that the plaintiff, a resident, may enforce specific performance. *Tucker v. Atlantic Coast Lumber Co.*, 59 S. E. 859 (S. C.).

A statute passed in 1872 gave aliens the same capacity to own and acquire property as citizens. See CIV. CODE OF S. C., 1902, § 2360. The court construes the present statute merely to revive the common law as to land exceeding the prescribed amount. At common law, an alien could take by purchase and hold equitable as well as legal estates in land, defeasible only by the sovereign. *Cross v. De Valle*, 1 Wall. (U. S.) 3. A contract to convey was enforceable against an alien vendee. *Scott v. Thorp*, 1 Edw. Ch. (N. Y.) 512. Since generally an alien could defend, but not enforce, his rights in land, it is probable that an alien vendee could not obtain specific performance. *Cf. Williams v. Myers*, 8 Nova Scotia 157; *Hubbard v. Goodwin*, 3 Leigh (Va.) 492. But in the case of an express trust for an alien, the *cestui's* assignee, or the sovereign, could proceed against the trustee on the ground that an interest passed to the alien in spite of his personal incapacity to enforce it. See *Murray v. Heron*, 7 Grant Ch. (U. C.) 177; *Sharp v. St. Sauveur*, L. R. 7 Ch. 343. This theory